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UNITED STATES OF AMERICA

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

APR 13 2000

at 2 o'clock and 29 min. PM  
WALTER A. Y. H. CHINN, CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
SZE MING SUEN, M.D., )  
 )  
 )  
Defendant. )  
 )  
 )

CR. NO. \_\_\_\_\_  
INDICTMENT  
18 U.S.C. § 1341  
[Mail Fraud]  
18 U.S.C. § 287  
[False Claims]

CR00-00146

HG

INDICTMENT

COUNTS 1-14

[Mail Fraud]

The Grand Jury charges:

At all times material to this Indictment:

Introduction

1. SZE MING SUEN was a medical doctor licensed to practice medicine in the State of Hawaii. SZE MING SUEN operated a business named Wahiawa Clinic, Inc., located in Wahiawa, Oahu.

2. The Health Care Financing Administration of the Department of Health and Human Services was an agency of the United States responsible for regulating and monitoring the administration of the Hawaii State Medicaid program, which provides medical services to low-income persons in the State of Hawaii. The Health Care Financing Administration provided approximately fifty percent (50%) of the funding for the Hawaii State Medicaid program, which was administered by the Department of Human Services of the State of Hawaii.

a. The State of Hawaii Department of Human Services contracted with the Hawaii Medical Service Association (HMSA) for the processing of claims for payment submitted for medical services rendered under the provisions of the Hawaii State Medicaid program, and in the distribution of federal and state funds as payment of such claims.

b. SZE MING SUEN was an authorized provider under the Hawaii State Medicaid program and, as such, was authorized to treat Medicaid beneficiaries and submit claims to HMSA for payment. In his agreement with the Hawaii State Medicaid program, SUEN agreed as follows:

"I agree that all services for which I make a claim against the Medicaid program (Title XIX) will be personally rendered by me."

SZE MING SUEN would submit to HMSA claims for services which he personally rendered to Medicaid beneficiaries. HMSA sent checks to SZE MING SUEN, via the United States mail, in payment of those claims.

3. HMSA was a member of the Blue Cross and Blue Shield Association and provided health care coverage in the State of Hawaii. HMSA maintained a list of "participating providers" who agreed to provide treatment to HMSA members and accept payments directly from HMSA. SZE MING SUEN was a participating provider. As a result, SZE MING SUEN submitted claims to HMSA for services to HMSA members, or patients, and HMSA sent checks directly to him, via the United States mail, in payment of those claims.

a. Under its provider agreement, HMSA was obligated to pay SZE MING SUEN for those services which HMSA agreed to provide to its members. HMSA agreed to pay only for services provided by licensed physicians who were acting within the lawful scope of their licenses.

b. Under Hawaii state law, only licensed physicians or pharmacists could dispense prescription drugs to patients. If a physician dispensed such drugs, he was required to count the pills personally, and advise patients on how to take the drugs and what drug interactions to avoid.

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The Scheme and Artifice to Defraud

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4. From a precise earlier date unknown to the grand jury, but by 1988, and continuing through in or about July 21, 1995, in the District of Hawaii and elsewhere, SZE MING SUEN knowingly devised and intended to devise a scheme and artifice to defraud and to obtain money from the Hawaii State Medicaid program and the Hawaii Medical Service Association, by means of false and fraudulent pretenses, representations and promises, as

well as omissions of material facts, well knowing at the time that such pretenses, representations, promises and omissions would be and were false when made. Such false statements, representations, promises and omissions included the following:

a. SZE MING SUEN billed HMSA and the Hawaii State Medicaid program for services which he did not provide. SZE MING SUEN had a pharmacy or "drug department" in his office, Wahiawa Clinic, which dispensed prescription drugs to patients. SZE MING SUEN billed HMSA and the Medicaid program for dispensing drugs, when in fact the drugs were handled and dispensed by one of his employees, who was not a licensed physician or pharmacist. SZE MING SUEN thus made it appear as if he had personally rendered the services, whereas the services were actually rendered by a person not licensed to dispense drugs under Hawaii law.

b. SZE MING SUEN billed HMSA and the Hawaii State Medicaid program for dispensing "brand" name prescription drugs, when in fact his employee dispensed less expensive generic drugs.

c. SZE MING SUEN billed HMSA and the Hawaii State Medicaid program for dispensing certain prescription drugs which were not actually dispensed.

5. By virtue of the foregoing acts, SZE MING SUEN submitted false claims to HMSA and the Medicaid program having a value well in excess of \$1 million.

6. On or about the dates stated, in the District of Hawaii and elsewhere, SZE MING SUEN, for the purpose of executing the aforesaid scheme and artifice to defraud, and attempting to

do so, did knowingly cause to be delivered by mail according to the directions thereon, the following items, with each such mailing constituting a separate count of this indictment:

HMSA MAILINGS

<u>COUNT</u>	<u>DATE</u>	<u>ADDRESSEE</u>	<u>ITEM</u>
1	4/14/95	Sze Ming Suen M.D.	HMSA check for \$19,653.60 which included payment for services allegedly rendered to patients Wallace Y., Lynn P. and Ann I.
2	4/28/95	Sze Ming Suen M.D.	HMSA check for \$17,944.57 which included payment for services allegedly rendered to patients William C. and Ann I.
3	5/5/95	Sze Ming Suen M.D.	HMSA check for \$21,352.13 which included payment for services allegedly rendered to patients Lynn P. and Ann I.
4	5/19/95	Sze Ming Suen M.D.	HMSA check for \$21,228.63 which included payment for services allegedly rendered to patient Ann I.
5	5/26/95	Sze Ming Suen M.D.	HMSA check for \$14,776.11 which included payment for services allegedly rendered to patients Lydia F. and Lynn P.

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MEDICAID MAILINGS

<u>COUNT</u>	<u>DATE</u>	<u>ADDRESSEE</u>	<u>ITEM</u>
6	4/14/95	Sze Ming Suen M.D.	Hawaii State Medical Assistance Program check for \$1,067.16 which included payment for services allegedly rendered to patients Florencia R. and Bernabe Z.
7	4/21/95	Sze Ming Suen M.D.	Hawaii State Medical Assistance Program check for \$318.24 which included payment for services allegedly rendered to patient Trinidad E.
8	4/28/95	Sze Ming Suen M.D.	Hawaii State Medical Assistance Program check for \$759.42 which included payment for services allegedly rendered to patients Revelina D., Florencia R., and Julian L.
9	5/5/95	Sze Ming Suen M.D.	Hawaii State Medical Assistance Program check for \$1,619.43 which included payment for services allegedly rendered to patients Rosalina R. and Revelina D.
10	5/26/95	Sze Ming Suen M.D.	Hawaii State Medical Assistance Program check for \$1,487.26 which included payment for services allegedly rendered to patients Juan A., Trinidad E. and Jacinto L.

<u>COUNT</u>	<u>DATE</u>	<u>ADDRESSEE</u>	<u>ITEM</u>
11	6/30/95	Sze Ming Suen M.D.	Hawaii State Medical Assistance Program check for \$1,888.45 which included payment for services allegedly rendered to patients Revelina D. and Trinidad E.
12	7/7/95	Sze Ming Suen M.D.	Hawaii State Medical Assistance Program check for \$1,579.61 which included payment for services allegedly rendered to patients Jacinto L., Florencia R. and Bernabe Z.
13	7/14/95	Sze Ming Suen M.D.	Hawaii State Medical Assistance Program check for \$1,881.64 which included payment for services allegedly rendered to patients Revelina D. and Bernabe Z.
14	7/21/95	Sze Ming Suen M.D.	Hawaii State Medical Assistance Program check for \$974.19 which included payment for services allegedly rendered to patient Julian L.

All in violation of Title 18, United States Code,  
section 1341.

COUNTS 15-23

[False Claims To Hawaii State Medicaid Program]

The Grand Jury further charges:

7. Paragraphs 1 and 2 of this Indictment are realleged and incorporated herein by reference.

8. On or about the dates stated, in the District of Hawaii, SZE MING SUEN made and presented, and caused to be made and presented, to the Health Care Financing Administration of the Department of Health and Human Services, an agency and department of the United States, claims for payment for medical services allegedly provided to beneficiaries under the Hawaii State Medicaid program, with said SZE MING SUEN then knowing such claims to be false, fictitious and fraudulent in the manner described below. The false claims include the following, with each such claim constituting a separate count of this indictment:

<u>COUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>NATURE OF FALSITY</u>
15	4/15/95	\$174.00	The claim falsely represented that Sze Ming Suen dispensed drugs to patient Juan A., whereas they were actually dispensed by someone who was not a physician or pharmacist
16	4/17/95	\$134.00	The claim falsely represented that Sze Ming Suen dispensed drugs to patient Trinidad E., whereas they were actually dispensed by someone who was not a physician or pharmacist
17	4/19/95	\$204.30	The claim falsely represented that Sze Ming Suen dispensed drugs to patient Jacinto L., whereas they were actually dispensed by someone who was not a physician or pharmacist
18	4/29/95	\$96.62	The claim falsely represented that Sze Ming Suen dispensed drugs to patient Trinidad E., whereas they were actually dispensed by someone who was not a physician or pharmacist



<u>COUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>NATURE OF FALSITY</u>
19	5/1/95	\$169.20	The claim falsely represented that Sze Ming Suen dispensed drugs to patient Revelina D., whereas they were actually dispensed by someone who was not a physician or pharmacist
20	5/9/95	\$76.40	The claim falsely represented that Sze Ming Suen dispensed drugs to patient Julian L., whereas they were actually dispensed by someone who was not a physician or pharmacist
21	5/9/95	\$6.00	The claim falsely represented that Sze Ming Suen dispensed drugs to patient Florencia R., whereas they were actually dispensed by someone who was not a physician or pharmacist
22	5/27/95	\$24.00	The claim falsely represented that Sze Ming Suen dispensed drugs to patient Jacinto L., whereas they were actually dispensed by someone who was not a physician or pharmacist
23	6/1/95	\$76.00	The claim falsely represented that Sze Ming Suen dispensed drugs to patient Revelina D., whereas they were actually dispensed by someone who was not a physician or pharmacist

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All in violation of Title 18, United States Code,  
section 287.

DATED: Honolulu, Hawaii, April 13, 2000.

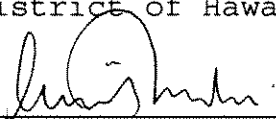
A TRUE BILL

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FOREPERSON, GRAND JURY



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United States v. Sze Ming Suen, M.D.  
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